IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 30.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Writ Appeal No. 545 of 2002

Subramani ... Appellant

Vs.

1.The Special Tahsildar,
Land Acquisition,
Neighbourhood Scheme,
Salem.

2.The Special Commissioner and
Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai-9.

3.Gunaekaran

4.R.Senthilkumar
(Respondents 3 and 4 are not
necessary parties to this appeal.
Hence they are given up). ... Respondents

Writ appeal filed under Clause 15 of the Letters Patent against the order dated 23.04.2001 made in W.P.No.4852 of 1994.

For Appellant : Mr.P.Jagadeesan

For Respondents 1 & 2 : Mr.C.Thirumurugan
Government Advocate

For respondents 3 and 4 : Given up.

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal has been filed against the order of the learned single Judge dated 23.04.2001 made in W.P.No.4852 of 1994, in and by

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which, the learned single Judge dismissed the writ petition filed by the petitioners therein.

2. The first petitioner in W.P.No.4852 of 1994 alone filed the present appeal.

3. Heard the learned counsel appearing for the appellant as well as the learned Government Advocate for respondents 1 and 2.

4. Mr.P.Jagadeesan, learned counsel appearing for the appellant, after taking us through the relevant materials, has raised the following contentions:

> (1) Inasmuch as Notification under Section 4(1) of the Tamil Nadu Land Acquisition Act (hereinafter referred to as "the Act") published in the Tamil Nadu Government Gazette on 19.12.1984 and declaration under Section 6 of the Act published in the Tamil Nadu Government Gazette on 25.05.1986 are beyond the prescribed period.
> (2) Inasmuch as Notification under Section 4(1) of the Act published in the Tamil Nadu Government Gazette as early as on 19.12.1984, there is no justification for effecting local publication on 22.05.1985 and publication in the Tamil Daily "Dina Thandhi" on 21.05.1985 and in the English Daily "The Hindu" on 28.05.1985. In view of the long gap, the action taken by the respondents is to be quashed.

5. Coming to the second contention that undue delay between the Tamil Nadu Gazette Notification and publication in the locality as well as newspapers, it is true that Notification under Section 4(1) of the Act dated 16.11.2004 was published in the Tamil Nadu Government Gazette on 19.12.1984. However the same was published in the newspapers viz., in the Tamil Daily "Dina Thandhi" on 21.05.1985 and in the English daily "The Hindu" on 28.05.1985 and the same was published in the locality on 22.05.1985. Though the gap appears to be on the higher side, the learned Government Advocate has brought to our notice two decisions of the Supreme Court holding that such delay would not invalidate the acquisition proceedings. In 1995 1 SCC 133 (STATE OF HARYANA AND ANOTHER VS. RAGHUBIR DAYAL) in para 7 after referring about the notification under Section 4(1) and declaration under Section 6 of the Act, their Lordships have held as follows:

> "Though there is a time gap of more than six months between the date of the notification under Section 4(1) in the State Gazette and the date of the publication of the substance of the notification in the locality, the delay by itself does not render the notification under Section 4(1) published in the State Gazette, invalid."

6. In 2003 1 CTC 59 (URBAN IMPROVEMENT TRUST Vs. BHERU LAL), in para 1, the Honourable Supreme Court reiterated the same principle in that case. The Notification under Section 4(1) was first published in the

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Official Gazette in June 1992. Thereafter, substance of Notification was published in November, 1992 and subsequently it was published in the local newspapers.

7. Taking note of the time gap, the Honourable Supreme Court, in para 20, has held as follows:

> "It is apparent that the Notification under Section 4 was first published in the official Gazette in June 1992. Thereafter substance was published in November 1992 at the conspicuous places and subsequently it was published in the local newspapers. Considering this sequence of publication, even if there is some delay, it would not mean that on this ground the land acquisition proceedings under Section 4 require to be set aside. Similar view is expressed by this Court in STATE OF HARYANA AND ANOTHER VS. RAGHUBIR DAYAL AND OTHERS, 1995(1) SCC para 7."

We have also relied on para 7 of the earlier decision reported in 1995 1 SCC 133 (STATE OF HARYANA AND ANOTHER VS. RAGHUBIR DAYAL).

8. In view of the decisions rendered by the Honourable Supreme Court, though the publication was effected in the locality and in the newspapers after a period of four months, we are of the view that acquisition proceedings cannot held to be invalid. Accordingly, we reject the said contention also.

9. Learned counsel appearing for the appellant has brought to our notice the decision of the First Bench of this Court dated 03.07.2002 in W.A.No.986 of 1986, wherein the Division Bench after finding that six months time for paper publication and local publication from the date of Notification under Section 4(1) of the Land Acquisition Act, can, by no stretch, be termed as reasonable, confirmed the order of the learned single Judge, who quashed the Notification issued under Section 4(1) of the Act on the point of delay. In view of the decision of the Supreme Court holding that on the ground of delay in publication in daily newspaper and locality, the acquisition proceedings cannot be quashed, we are of the view that the said decision cannot be applied to the case on hand. On the other hand, the decision of the Division Bench goes against the dictum laid down by the Supreme Court. Accordingly, the argument based on the Division Bench judgment cannot be accepted.

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10. In these circumstances, we do not find any valid ground for interference. Accordingly, the writ appeal fails and the same is dismissed. No costs.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To

1.Special Tahsildar,
Land Acquisition,
Neighbourhood Scheme,
Salem.

2.The Special Commissioner and
Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai-9.

+ 1 CC To Mr. P.Jagadeesan, Advocate SR NO. 27868

+ 1 CC to the Government Pleader SR NO 27985

W.A.No. 545 of 2002
30.06.2006.

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